



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

MAR 16 2017

Bruno L. Pigott
Commissioner

VIA CERTIFIED MAIL: 7016 2140 0000 0989 9231

VIA CERTIFIED MAIL: 7016 2140 0000 0989 9248

Jonathan Morrish, President
Lehigh Cement Company
300 E. John Carpenter Freeway
Irving, TX 75062

Corporation Service Co., Registered Agent
135 North Pennsylvania Street
Suite 1610
Indianapolis, IN 46204

Re: Notice of Violation and Proposed Agreed Order
Lehigh Cement Company
093-00002
Mitchell, Lawrence County
Case No. 2016-24141-A

Qualified offer of settlement: inadmissible pursuant to Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.

Dear Mr. Morrish:

This is to advise that the Indiana Department of Environmental Management (IDEM) has conducted an investigation of Lehigh Cement Company located at 180 North Meridian Road in Mitchell, Indiana. As a result of information obtained during that investigation, IDEM has made a preliminary determination that violations of environmental management laws and permit exist. Pursuant to IC 13-30-3-3, enclosed please find a Notice of Violation that sets forth the alleged violations, and a proposed Agreed Order which constitutes a qualified offer of settlement.

You may request a settlement conference to discuss the allegations and the actions necessary to correct and resolve the violations, which may include injunctive relief and the establishment of a compliance schedule. Payment of a civil penalty will also be discussed. The civil penalty amount noted in the proposed Agreed Order contains a preliminary penalty figure for settlement discussion purposes only and is based on penalty calculations associated with the alleged violations set forth in the Notice of Violation. A portion of the civil penalty may be offset by performing an approved Supplemental Environmental Project (SEP). Typical SEPs have included pollution prevention, pollution control, and environmental restoration projects. A copy of IDEM's SEP policy may be obtained from this office or at IDEM's website at www.IN.gov/idem.

The individual signing the enclosed Agreed Order should be the President of the company or other authorized signatory. The timely entry into an Agreed Order, which saves you and IDEM time and resources, may lead to a reduction in the civil penalty.

IDEM is not required to extend the offer of entry into an Agreed Order for more than sixty days. You may enter into an Agreed Order without admitting that the violations occurred. If an Agreed Order is not entered into, IDEM may proceed to issue a unilateral notice and order requiring compliance with the environmental laws and permit, including payment of a civil penalty. Please contact me at (317)232-8408 or e-mail mchaifetz@idem.IN.gov, if you have any questions or if you wish to request a settlement conference.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Chaifetz", with a long horizontal flourish extending to the right.

Matthew Chaifetz
Senior Enforcement Manager
Enforcement Section
Office of Air Quality

Enclosures

cc: Scott Quaas, Environmental Manager, Lehigh Cement – Mitchell Plant
Rochelle Marceillars, US EPA Region 5
Matthew Chaifetz, Compliance & Enforcement, OAQ, via electronic delivery
<http://www.IN.gov/idem>



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NOTICE OF VIOLATION

Via Certified Mail No.: 7016 2140 0000 0989 9231 Via Certified Mail No.: 7016 2140 0000 0989 9248

To: Jonathan Morrish, President
Lehigh Cement Company
300 E. John Carpenter Freeway
Irving, TX 75062

To: Corporation Service Co., Registered Agent
135 North Pennsylvania Street
Suite 1610
Indianapolis, IN 46204

Case No. 2016-24141-A

Based on an investigation the Indiana Department of Environmental Management ("IDEM") has reason to believe that Lehigh Cement Company ("Respondent") has violated environmental rules and permit. The violations are based on the following:

1. Respondent owns and operates a stationary portland cement manufacturing plant with Plant I.D. No. 093-00002 located at 180 North Meridian Road in Mitchell, Lawrence County, Indiana (the "Site").
2. Pursuant to Part 70 Permit 093-32611-00002, issued February 4, 2013, Condition D.4.1(b), the PM emissions from each Kiln #1 and Kiln #2 shall not exceed 0.28 lb/ton clinker.

Based on a stack test conducted October 22, 2014, PM emissions from Kiln #1 exceeded 0.28 lb/ton clinker, in violation of Part 70 Permit 093-32611-00002, Condition D.4.1(b).

3. Pursuant to Part 70 Permit 093-32611-00002, issued February 4, 2013, Condition C.15, a retest to demonstrate compliance shall be performed no later than one hundred eight (180) days after the date of the test.

Respondent did not retest to demonstrate compliance within 180 days, in violation of Part 70 Permit 093-32611-00002, Condition C.15.

In accordance with IC 13-30-3-3, the Commissioner herein provides notice that violations may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violations and, as necessary and appropriate, for the payment of a civil penalty. The Commissioner is not required to extend this offer for more than sixty (60) days.

As provided in IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting that the violations occurred. IDEM encourages settlement by Agreed



A State that Works

Order, thereby resulting in quicker correction of the environmental violations and avoidance of extensive litigation. Timely settlement by Agreed Order may result in a reduced civil penalty. Also, settlement discussions will allow the opportunity to present any mitigating factors that may be relevant to the violations.

If an Agreed Order is not entered into within sixty (60) days of receipt of this Notice of Violation, the Commissioner may issue a Notice and Order under IC 13-30-3-4 containing the actions that must be taken to correct the violations and requiring the payment of an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact Matthew Chaifetz at (317)232-8408 or mchaifet@idem.IN.gov within fifteen (15) days after receipt of this Notice to discuss resolution of this matter.

For the Commissioner:

Date: 3/16/17



Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality

cc: Scott Quaas, Environmental Manager, Lehigh Cement, Mitchell Plant
Rochelle Marceillars, US EPA Region 5
Lawrence County Health Department
Matthew Chaifetz, Compliance & Enforcement, OAQ, via electronic delivery
Pat Austin, Compliance & Enforcement, OAQ, via electronic delivery
<http://www.in.gov/idem/enforcement/>

4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") via Certified Mail to:

Jonathan Morrish, President
Lehigh Cement Company
300 E. John Carpenter Freeway
Irving, TX 75062

Corporation Service Co., Registered Agent
135 North Pennsylvania Street
Suite 1610
Indianapolis, IN 46204

5. During an investigation [conducted by a representative of IDEM, the following violations were found:

- a. Pursuant to Part 70 Permit 093-32611-00002, issued February 4, 2013, Condition D.4.1(b), the PM emissions from each Kiln #1 and Kiln #2 shall not exceed 0.28 lb/ton clinker.

Based on a stack test conducted October 22, 2014, PM emissions from Kiln #1 exceeded 0.28 lb/ton clinker, in violation of Part 70 Permit 093-32611-00002, Condition D.4.1(b).

- b. Pursuant to Part 70 Permit 093-32611-00002, issued February 4, 2013, Condition C.15, a retest to demonstrate compliance shall be performed no later than one hundred eight (180) days after the date of the test.

Respondent did not retest to demonstrate compliance within 180 days, in violation of Part 70 Permit 093-32611-00002, Condition C.15.

7. On November 5, 2015, Respondent conducted stack testing which demonstrated compliance with Part 70 Permit 093-32611-00002, Condition D.4.1(b).
8. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective ("Effective Date") when it is approved by Complainant or Complainant's delegate, and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with Part 70 Permit 093-34849-00002, issued February 1, 2016, unless superseded by a permit modification or renewal.
3. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

Matthew Chaifetz, Senior Enforcement Manager
Compliance and Enforcement Branch – Mail Code 61-53
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251

4. Respondent is assessed and agrees to pay a civil penalty of Seventeen Thousand Five Hundred Dollars (\$17,500). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the 30th day being the "Due Date".
5. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

IDEM Office of Legal Counsel
IGCN, Rm N1307
100 N Senate Ave
Indianapolis, IN 46204

6. This Agreed Order shall apply to and be binding upon Respondent and his/her/its successors and assigns. Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.
7. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 5, above.
8. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
9. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred. Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
10. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permit or any applicable Federal or State law or regulation.
11. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order

- will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
12. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violations specified in the NOV.
 13. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the EPA or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the EPA or any other agency or entity.
 14. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondent.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

TECHNICAL RECOMMENDATION:
Department of Environmental
Management

By: David P. McIver
David P. McIver, Chief
Enforcement Section
Office of Air Quality

Date: 2-10-17

RESPONDENT:
Lehigh Cement Company

By: _____

Printed: _____

Title: _____

Date: _____

COUNSEL FOR RESPONDENT:

By: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF
ENVIRONMENTAL
MANAGEMENT _____ DAY OF _____, 20 ____
THIS

For the Commissioner:

By: _____
Keith Baugues, Assistant Commissioner
Office of Air Quality
Indiana Department of Environmental
Management

